

# SUMMARY ANALYSIS OF AMENDED BILL

## Franchise Tax Board

Author: Cedillo, et al. Analyst: Jeani Brent Bill Number: AB 601

Related Bills: See Prior Analysis Telephone: 845-3410 Amended Date: 06/24/1999

Attorney: Patrick Kusiak Sponsor:

**SUBJECT:** Urban Adaptive Reuse Zones/Qualified Adaptive Reuse Buildings Credit

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_\_.

X AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended \_\_\_\_\_.

X FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO \_\_\_\_\_.

X REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED February 19, 1999. AND AMENDED April 19, 1999. STILL APPLY.

X OTHER - See comments below.

### SUMMARY OF BILL

Under the Government Code, this bill would authorize a new type of economic development area, called urban adaptive reuse zones (UARZ). The Trade and Commerce Agency (TCA) would be required to designate up to 10 UARZs from applications submitted by local governing bodies. The designations would be binding for ten years with the possibility of a five-year extension if specified vacancy rates exist at the end of the ten-year initial designation period.

Local legislative bodies may by ordinance designate buildings located within the UARZ as "qualified adaptive reuse buildings." To be designated, buildings must have been built before 1975 and have been 50% or more vacant, excluding first floor retail space, for a period of six months or longer, within the 12 months prior to the application for designation. Qualified adaptive reuse buildings would be eligible for various regulatory, tax, program, and other incentives, and TCA would be required to adopt regulations concerning the application and designation process.

Under the Personal Income Tax Law (PITL) and the Bank and Corporation Tax Law (B&CTL), this bill, by conforming with modifications to the federal rehabilitation credit, would allow a state credit equal to either of the following:

1. 20% of the amount paid or incurred during the taxable or income year in connection with the rehabilitation of a qualified adaptive reuse building, or
2. 30% of the amount paid or incurred during the taxable or income year in connection with the rehabilitation of a qualified adaptive reuse building that meets the federal minimum income housing set-aside requirements or is listed in the California Register of Historical Resources.

### Board Position:

<u>      </u> S	<u>      </u> NA	<u>      </u> NP
<u>      </u> SA	<u>      </u> O	<u>      </u> NAR
<u>  X  </u> N	<u>      </u> OUA	<u>      </u> PENDING

Department/Legislative Director Date

**Johnnie Lou Rosas** **07/07/1999**

This bill would make various changes to other provisions of the Government Code and the Revenue and Taxation Code. These changes do not impact the department's programs or procedures and are not discussed in this analysis.

#### SUMMARY OF AMENDMENT

The June 24, 1999, amendments made two technical corrections to the Government Code provisions.

The June 14, 1999, amendments, under the Government Code, added the requirement for TCA to develop designation applications and to adopt regulations concerning the application and designation process. In addition, these amendments changed the definition of "qualified adaptive reuse" to specify that "theater space" would be excluded from the floor area requirements. The amendment also made a technical correction that changed "urban incentive" to "adaptive reuse."

The June 2, 1999, amendments removed the urgency clause provisions.

The May 28, 1999, amendments replaced the PITL and B&CTL tax credit language with language that would conform to the federal rehabilitation credit, with modifications that would keep the effect of the credit the same as before the amendment. These amendments changed the Government Code sections to specify that the six months of vacancy occur within 12 months of the application for designation; reduced the maximum number of designations from 20 to 10; and removed the designation criterion that the jurisdiction had been Presidentially declared a disaster area within the past seven years.

These amendments resolved many of the implementation considerations addressed in the department's analyses of the bill as introduced February 19, 1999, and as amended April 19, 1999. Except for the items discussed in this analysis, the department's analyses of the bill as introduced February 19, 1999, and as amended April 19, 1999, still apply.

#### EFFECTIVE DATE

This bill would become effective January 1, 2000, and specifies that the tax credits would apply for taxable or income years beginning on or after January 1, 2000.

#### Implementation Considerations

1. This bill uses the phrase "minimum housing set aside requirements" as contained in Section 42(g) of the Internal Revenue Code. However, Internal Revenue Code Section 42(g) does not contain that phrase. The proposed amendments would change the phrase to "qualified low-income housing project requirements," as contained in Section 42(g)(1).
2. The attached proposed amendments would make stylistic changes to the PITL and B&CTL provisions to ensure consistency with other federal conformity language used throughout the PITL and B&CTL.
3. This bill does not define the terms "live-work" and "affordable housing component." This lack of definitions could lead to disputes between taxpayers and the department regarding the correct interpretation of these terms.

4. If this bill is amended to provide a sunset date, the bill also should be amended to limit the number of years the unused portion of any credit could be carried forward. Credits with unlimited carryovers must be maintained on tax forms and systems even long after the underlying credit has expired. Since tax credits carryovers are usually exhausted within eight years, most recently enacted credits contain limited carryover provisions.

#### TAX REVENUE ESTIMATE

Revenue losses under the PITL and B&CTL are estimated as follows:

Effective for Income/Taxable Years Beginning January 1, 2000 (in millions)		
1999-0	2000-1	2001-2
\$10	\$60	\$65

Approximately 20% of the impact above is attributed to the PITL.

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

#### REVENUE ESTIMATE DISCUSSION

Revenue losses under the PITL and B&CTL would depend on the amount of qualified expenditures each year and the ability of taxpayers to apply calculated credits against available state income tax liabilities (including any alternative minimum tax limitations).

The above estimates are based on federal revenue loss projections for the federal rehabilitation credit, prorated to California and allowing for the modifications provided in this bill.

#### BOARD POSITION

Neutral.

At its July 6, 1999, meeting, the Franchise Tax Board voted 2-0 to take a neutral position on this bill amended June 24, 1999.

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FRANCHISE TAX BOARD'S  
PROPOSED AMENDMENTS TO AB 601  
As Amended June 24, 1999

AMENDMENT 1

On page 10, ~~strikeout~~ lines 20 through 39, ~~strikeout~~ pages 11 through 13, and insert:

17053.76. For each taxable year beginning on or after January 1, 2000, there shall be allowed as a credit against the "net tax," as defined in Section 17039, an amount determined in accordance with Section 47 of the Internal Revenue Code, modified as follows:

(a)(1) The provisions of Section 47(a) of the Internal Revenue Code shall be modified as follows:

(2) Sections 47(a)(1) and 47(a)(2) of the Internal Revenue Code do not apply and in lieu thereof the following provisions shall apply:

(A) 20 percent of the amount paid or incurred during the taxable year in connection with the rehabilitation of a qualified adaptive reuse building (other than a building described in subparagraph (B)), and

(B) 30 percent of the amount paid or incurred during the taxable year in connection with the rehabilitation of a qualified adaptive reuse building that is either of the following:

(i) a structure that meets the "qualified low-income housing project" requirements as described in Section 42(g)(1) of the Internal Revenue Code, or

(ii) a structure listed in the California Register of Historical Resources.

(b) For purposes of this section, Section 47 shall be applied by substituting "qualified adaptive reuse building" for "qualified rehabilitated building" except where otherwise provided. (c)(1)(A) of the Internal Revenue Code does not apply. "Qualified adaptive reuse building" shall mean a building described in Section 7093 of the Government Code.

(c) The references to the year "1936" in Section 47(c)(1)(B) of the Internal Revenue Code are modified to refer to the year "1975."

(d) Section 47(c)(1)(C)(i)(I) of the Internal Revenue Code, relating to the definition of "substantially rehabilitated," is modified to provide that the "qualified rehabilitation expenditures" must exceed 10 percent of the adjusted basis in the qualified adaptive reuse building.

(e) Section 47(c)(2)(C) of the Internal Revenue Code, relating to the definition of "certified rehabilitation," is modified to mean any rehabilitation of a qualified adaptive reuse building that is a certified historic structure that the State Historic Preservation Officer has certified as conforming with the Secretary of the Interior's Standards for Rehabilitation.

(f) Section 47(c)(3) of the Internal Revenue Code, relating to "certified historic structure defined," does not apply and in lieu thereof, a "certified historic structure" means a structure listed in the California Register of Historical Resources.

(g) In the case where the credit allowed by this section exceeds the "net tax," the excess may be carried over to reduce the "net tax" in the following year, and succeeding years if necessary, until the credit is exhausted.

SEC. 6. Section 23608.4 is added to the Revenue and Taxation Code, to read:  
23608.4. For each income year beginning on or after January 1, 2000, there shall be allowed as a credit against the "tax," as defined in Section 23036, an amount determined in accordance with Section 47 of the Internal Revenue Code, modified as follows:

(a)(1) The provisions of Section 47(a) of the Internal Revenue Code shall be modified as follows:

(2) Sections 47(a)(1) and 47(a)(2) of the Internal Revenue Code do not apply and in lieu thereof the following provisions shall apply:

(A) 20 percent of the amount paid or incurred during the income year in connection with the rehabilitation of a qualified adaptive reuse building (other than a building described in subparagraph (B)), and

(B) 30 percent of the amount paid or incurred during the income year in connection with the rehabilitation of a qualified adaptive reuse building that is either of the following:

(i) a structure that meets the "qualified low-income housing project" requirements as described in Section 42(g)(1) of the Internal Revenue Code, or

(ii) a structure listed in the California Register of Historical Resources.

(b) For purposes of this section, Section 47 shall be applied by substituting "qualified adaptive reuse building" for "qualified rehabilitated building" except where otherwise provided. "Qualified adaptive reuse building" shall mean a building described in Section 7093 of the Government Code.

(c) The references to the year "1936" in Section 47(c)(1)(B) of the Internal Revenue Code are modified to refer to the year "1975."

(d) Section 47(c)(1)(C)(i)(I) of the Internal Revenue Code, relating to the definition of "substantially rehabilitated," is modified to provide that the "qualified rehabilitation expenditures" must exceed 10 percent of the adjusted basis in the qualified adaptive reuse building.

(e) Section 47(c)(2)(C) of the Internal Revenue Code, relating to the definition of "certified rehabilitation," is modified to mean any rehabilitation of a qualified adaptive reuse building that is a certified historic structure that the State Historic Preservation Officer has certified as conforming with the Secretary of the Interior's Standards for Rehabilitation.

(f) Section 47(c)(3) of the Internal Revenue Code, relating to "certified historic structure defined," does not apply and in lieu thereof, a "certified historic structure" means a structure listed in the California Register of Historical Resources.

(g) In the case where the credit allowed by this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and succeeding years if necessary, until the credit is exhausted.